

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

April 20, 2010

Lyle W. Cayce
Clerk

No. 08-30752

Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

ROBERT W. CLARK, JR.,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 5:98-CR-50036-1

Before SMITH, PRADO, and HAYNES, Circuit Judges.

PER CURIAM:*

Robert W. Clark, Jr., federal prisoner # 09895-035, appeals the district court's grant of his 18 U.S.C. § 3582(c)(2) motion to reduce his sentence based on the amendments to the crack cocaine Guideline. Clark argues that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), *Kimbrough v. United States*, 552 U.S. 85 (2007), and *United States v. Hicks*, 472 F.3d 1167 (9th Cir. 2007), the district court had the discretion to depart from the amended guidelines range and that the court erred when it failed to give reasons why it did not grant a

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

greater than two offense level reduction. Clark further argues that 28 U.S.C. § 994(u) does not grant the Sentencing Commission the authority to bind the district court's discretion in § 3582 cases.

We review a district court's decision whether to reduce a sentence under § 3582(c)(2) for an abuse of discretion, and its interpretation of the Sentencing Guidelines is reviewed de novo. *United States v. Dublin*, 572 F.3d 235, 238 (5th Cir.), *cert. denied*, 130 S. Ct. 517 (2009). *Booker* is inapplicable to sentence reductions under § 3582(c)(2), and a district court cannot reduce a sentence below the minimum provided in the amended guidelines range. *Id.* at 238. Furthermore, a district court is not required to state findings of facts and conclusions of law when granting a § 3582(c)(2) motion. *United States v. Evans*, 587 F.3d 667, 674 (5th Cir. 2009), *petition for cert. filed* (Jan. 28, 2010) (No. 09-8939).

AFFIRMED.